

ORIGINAL

Decision No. 34651

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of L. L. MOCKENHAUPT for an order approving and confirming the purchase by him of the one-fourth interest of ETHEL MOCKENHAUPT ARGUE in and to certificate of public convenience and necessity No. 344-F, granted by Decision No. 25545 and:
 Application of L. L. MOCKENHAUPT, ^{et al} the Estate of Anna Mockenhaupt, deceased, by OTILLIA R. MOCKENHAUPT MOUNTAIN and PETER J. MOCKENHAUPT Executors, d/b/a/(VICTORVILLE-BARSTOW TRUCK LINE,) for a certificate of public convenience and necessity authorizing the extension of an automobile freight line as a common carrier between Victorville and Lucerne Post Office; between Barstow and Bicycle Lake; to and from points within nine miles of authorized routes between Cajon and Yermo; and between Verdemont and Yermo, inclusive, serving all intermediate points.

Application No. 24143

ARTHUR H. GLANZ, for Applicant.

E. T. LUCEY, for The Atchison, Topeka & Santa Fe Railway Company, Protestant.

BY THE COMMISSION:

O P I N I O N

By this application, L. L. Mockenhaupt, doing business as the Victorville-Barstow Truck Line, a highway common carrier, seeks authority from the Commission (1) to purchase an outstanding one-fourth interest in said truck line from Ethel Mockenhaupt Argue, (2) to extend service from Victorville to Lucerne Valley; from Barstow to Bicycle Lake; and nine miles laterally on each side of U. S. Highway No. 66 and California State Highway No. 18 between Cajon, Lucerne Valley and Yermo; and (3) to operate locally on U. S. Highway No. 66 between Verdemont and Yermo and intermediate points, and to incorporate said extensions of service with his existing operative

(1)
rights.

A public hearing was had before Examiner Broz at Victorville, evidence was received and the matter was submitted on the record. It is now ready for decision. The Atchison, Topeka & Santa Fe Railway Company was represented by counsel at the hearing, and protested that part of the application dealing with applicant's proposal to render local truck service between Verdemon and Yermo.

Purchase of Interest From Ethel Mockenhaupt Argue

Evidence was offered to show that the original operative right of the Victorville-Barstow Truck Line was granted by this Commission to A. L. Mockenhaupt and L. L. Mockenhaupt as co-partners by Decision No. 25545, of January 16, 1933, in Application No. 18460; that A. L. Mockenhaupt subsequently died and his one-half interest in the truck line passed to his mother Anna Mockenhaupt and to his widow Ethel Mockenhaupt (Argue) in equal shares; that Anna Mockenhaupt died on March 31, 1940 and bequeathed her one-fourth interest in said truck line to L. L. Mockenhaupt the applicant herein; and that on May 31, 1940 Ethel Mockenhaupt (Argue) executed an agreement of sale to transfer her one-fourth interest to L. L. Mockenhaupt. A copy of said agreement is attached to the pending application as "Exhibit A." It is this transfer which the applicant asks the Commission to approve herein. The effect of the transfer, according to the witness, would be to

(1) The Victorville-Barstow Truck Line operates as a highway common carrier for the transportation of property, generally, between Los Angeles, Colton and San Bernardino, on the one hand, and points between Verdemon and Yermo, on the other hand, pursuant to a certificate of public convenience and necessity granted by Decision No. 25545, dated January 16, 1933, in Application No. 18460.

vest full ownership of the business and the operative right of the Victorville-Barstow Truck Line in L. L. Mockenhaupt.

The consideration for the sale and transfer, according to the agreement, is the sum of \$2,500 payable as follows: \$1,000 upon execution of the agreement and the balance of \$1,500 payable by applicant at the rate of \$50 per month, together with interest on the unpaid balance at the rate of 4 per cent per annum. Since the payment of the balance of \$1,500 extends beyond a period of one year, the necessary authority permitting L. L. Mockenhaupt to incur such indebtedness will be provided for by the order attached to this opinion.

Extension of Service from Victorville to Lucerne Valley

The applicant's operating manager testified that there is no highway common carrier service now rendered between Victorville and Lucerne Valley and intermediate points at the present time; that the distance between said points is 22 miles, and that applicant proposes to operate a regular schedule once a week as a minimum, with "on-call" service at other times, and perform pickup and delivery service at minimum rates heretofore established by the Commission. Other witnesses stated that Lucerne Valley has a population of about 300 persons who engage in agricultural, dairy and poultry farming and ship and receive about 70 to 75 tons of traffic per month; that there is no common carrier now serving them, and that they will patronize the applicant's service if it is established.

The evidence appears to justify the conclusion that applicant's truck service should be extended from Victorville to Lucerne Valley and intermediate points and his request for permission to operate between said points will be granted.

Extension of Service from Barstow to Bicycle Lake

An officer of the Quartermaster Corps, United States Army, appeared and testified that the government is building an anti-aircraft base at Bicycle Lake some 37 miles north of Barstow, which will eventually accommodate 2,500 men. He stated that while army vehicles are now used to transport some food supplies and material to Bicycle Lake, applicant's proposed "on-call" truck service would be convenient to handle perishable meats, fruits and vegetable shipments from Los Angeles inasmuch as such shipments are now delayed in transit one day, being shipped from Los Angeles to Camp Haan near Riverside, and reshipped from this camp to Bicycle Lake. The expedited service and reduced damage to shipments which would result from the establishment of applicant's through service, he said, would substantially aid the government quartermaster department.

It appears that the proposed service between Barstow and Bicycle Lake and intermediate points as an extension of applicant's present service from Los Angeles to Barstow is justified and required to enable applicant to handle shipments of property for the government and the public and this extension of service will be authorized.

Extension of Service Laterally Nine Miles on Each Side of Highway Between Cajon, Lucerne Valley and Yermo

The applicant's manager urged that authority be granted to the Victorville-Barstow Truck Line to perform truck service nine miles laterally on each side of the highways now traversed

and proposed to be traversed pursuant to extensions of service sought herein, between Los Angeles, Colton and San Bernardino, on the one hand, and points between Cajon, on the south, Lucerne Valley, on the east, and Yermo, on the north, on the other hand. Several ranch owners, well-drilling contractors and representatives of oil companies testified that they are now required to come into Victorville and other main highway points to pick up and deliver their shipments to destinations located as far as nine miles from the highway and that applicant's service should be extended laterally along the highway to serve these off-route points. An exhibit designating some thirteen guest ranches and cattle ranches located from one to eight miles off the main highway now traversed by applicant was offered in evidence to support applicant's proposal.

The secretary of the Victorville Chamber of Commerce testified that the United States Army is now constructing an air base at Adelanto about seven miles northwest of Victorville; that approximately 4,100 officers and enlisted personnel will be stationed at the new camp for air training in connection with the National Defense Program and that lateral extension of applicant's truck service would permit him to render through truck service from Los Angeles to Adelanto via Victorville. The witness urged that the request for lateral service be granted.

It was testified also that turkey ranchers and horticultural farmers in the Apple Valley District and near Hesperia (districts adjacent to but not on U. S. Highway No. 66) would be greatly benefited by lateral truck service for both inbound and outbound traffic.

Although the evidence of record does not appear to warrant lateral operations over the entire route (i.e. from Cajon on the south to Yermo on the north as sought by the applicant) it does appear that such service is necessary in the area bounded by Miller's Corners on the south, Lucerne Valley on the east, and Helendale on the north, and would offer a material convenience to shippers and receivers of freight located in that area. The latter boundaries would permit applicant to serve Adelanto, Apple Valley, Hesperia and numerous guest ranches and farms located at points adjacent to the main highway and to this extent the record supports applicant's request for authority to render lateral service. Subject to that modification therefore, applicant will be authorized to perform highway common carrier service from and to points located nine miles laterally on each side of U. S. Highway No. 66 and California State Highway No. 18, between Miller's Corners on the south, Lucerne Valley on the east, and Helendale on the north.

Request to Perform Local Truck Service
between Verdemon and Yermo

Applicant offered testimony through several shippers engaged in the business of distributing electrical goods, farming supplies, plumbing and contracting material and lumber and auto supplies, who testified that highway common carrier service is required locally between Verdemon and Yermo and intermediate points. It appears from their testimony that they occasionally ship from and to Victorville, Hodge, Helendale, Oro Grande and Barstow and would like to have applicant handle such shipments and give them store-door pickup and delivery service. Applicant's operating manager testified that his trucks regularly go through these points handling shipments from and to Los Angeles, Colton and San Bernardino but that under restrictions in his present

operative right he is prohibited from handling local shipments. From numerous requests which came to him, he said, he was prompted to seek authority from the Commission to perform local service and that such service could be easily performed as a part of his present service between Los Angeles and the points involved. The evidence presented by applicant tends to show that most of the shipments would move into or out of Victorville; that shipments are infrequent and sporadic in nature and that the volume of traffic is small.

A witness for The Atchison, Topeka & Santa Fe Railway Company testified that local rail service with store-door pickup and delivery is now rendered daily by numerous freight and passenger trains operated by his company, the Union Pacific Railway and the Railway Express Agency, Inc.; that traffic between Barstow and Victorville, the two principal intermediate points, is very light; that existing carriers have received no complaints from any shippers criticising service in the territory and he urged that applicant's proposal be denied because the ultimate effect thereof would be to merely divert traffic from existing carriers to the applicant with no improvement in service or reduction in rates.

While the record supports the view that some minor convenience would be served by the establishment of a local truck service from and to several of the intermediate points between Verdemon and Yermo, it is not sufficiently persuasive to warrant the Commission in concluding that applicant should be authorized to perform such service to the detriment of existing common carriers whose services have not been shown to be either inefficient or inadequate. Even though applicant proposes to incorporate the proposed local service with his through service from and to Los Angeles at a minimum of expense, any traffic handled, however

small, would be merely diverted from existing carriers. Since local traffic is admittedly light in volume, with no prospect of developing more business, it appears reasonable to conclude that it should move via existing carriers in the absence of specific evidence of inadequate service. No such evidence appears of record herein and the request of applicant for authority to establish local truck service between Verdemon and Yermo and intermediate points, therefore, must be denied.

Upon consideration of the entire record and evidence adduced therein we are of the opinion and find that the transfer of a one-fourth interest in the Victorville-Barstow Truck Line from Ethel Mockenhaupt Argue to L. L. Mockenhaupt is warranted and that the purchase of said interest by L. L. Mockenhaupt is justified, subject to the conditions attached thereto by our order. We are of the further opinion and find that public convenience and necessity justify and require the establishment of highway common carrier service by applicant from Victorville to Lucerne Valley and intermediate points; from Barstow, on the one hand, to Bicycle Lake, on the other hand; and finally, by lateral extension nine miles on each side of U. S. Highway No. 66 and California Highway No. 18, between Miller's Corners on the south, Lucerne Valley on the east, and Helendale on the north, and that all of said extensions of service should be incorporated with and become a part of applicant's existing operative rights, so as to permit him to render through service between Los Angeles, Colton and San Bernardino, on the one hand, and all of said points, on the other hand. An in lieu certificate providing for a restatement of applicant's operative rights, both existing and as authorized herein will be issued.

We are of the further opinion and find that applicant's proposals to render truck service from and to intermediate points between Barstow and Bicycle Lake, and locally between Verdemont and Yermo have not been justified by the evidence and testimony of record and should be denied.

O R D E R

A public hearing having been held in the above-entitled proceeding, and based on the Commission's finding in the foregoing opinion that public convenience and necessity so require,

IT IS ORDERED that Ethel Mockenhaupt Argue be and she is hereby authorized to sell and transfer to L. L. Mockenhaupt, and the latter is hereby authorized to purchase and acquire a one-fourth interest in the Victorville-Barstow Truck Line under the terms of and pursuant to that agreement dated May 31, 1940 executed by said parties; and to incur indebtedness in connection with such purchase and acquisition in the amount of \$1,500 payable in monthly installments of \$50 per month with interest on the unpaid balances at the rate of four per cent per annum.

IT IS FURTHER ORDERED that an in-lieu certificate of public convenience and necessity be and it is hereby granted to L. L. Mockenhaupt, doing business as Victorville-Barstow Truck Line, authorizing him to operate as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act for the

transportation of property (1) between Los Angeles, Colton and San Bernardino, on the one hand, and Verdemont, Lucerne Valley, Yermo and Bicycle Lake and intermediate points, on the other hand, and (2) between Los Angeles, Colton and San Bernardino, on the one hand, and points located laterally within nine miles on each side of U. S. Highway No. 66 between Miller's Corners and Helendale, and on California Highway No. 18 between Victorville and Lucerne Valley.

Said certificate is granted subject to the following condition:

L. L. Mockenhaupt, doing business as Victorville-Barstow Truck Line, his successors or assigns, shall never claim before this Commission, or any court or other public body, a value for the authority hereby granted in excess of the actual cost thereof.

IT IS FURTHER ORDERED that, in the operation of the highway common carrier service pursuant to the foregoing certificate, the following service regulations shall be observed:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
2. Applicant shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and making concurrently effective tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than fifteen (15) days' notice to the Commission and the public.
3. Applicant shall conduct said highway common carrier service over and along the following routes, subject to the authority of the Railroad Commission to change or modify them at any time by further order:
 - (a) Between Los Angeles and San Bernardino, via Valley Boulevard to junction with U. S. Highway No. 60-70-99; thence via

U. S. Highway No. 60-70-99 to Colton; thence via Mt. Vernon Avenue to San Bernardino.

- (b) Between San Bernardino and Barstow, via U. S. Highway No. 66.
- (c) Between Barstow and Bicycle Lake, via county road running in a northeasterly direction from Barstow.
- (d) Between Barstow and Yermo, via U. S. Highway No. 91-466; also via U. S. Highway No. 66 and county road via Daggett.
- (e) Between Victorville and Lucerne Valley, via California State Highway No. 18.

4. Service between all points shall be performed under a regular schedule daily, except Sundays and holidays, with the following exceptions:

- (a) Service between Los Angeles, Colton and San Bernardino, on the one hand, and points between Victorville and Lucerne Valley, on the other hand, shall be one day a week, with "on-call" service on other days.
- (b) Service between Los Angeles, Colton and San Bernardino, on the one hand, and Bicycle Lake, shall be "on-call" only.

5. Applicant shall not render local truck service between Verdmont, Yermo, Lucerne Valley or Bicycle Lake, or intermediate points, located on U. S. Highway No. 66 or California State Highway No. 18, nor between said points, on the one hand, and points located within nine miles laterally of said highways between said points, on the other hand.

IT IS FURTHER ORDERED that operative authority heretofore granted to A. L. Mockenhaupt and L. L. Mockenhaupt, or their predecessors in interest, by Decision No. 25230 of October 3, 1932, and by Decision No. 25545 of January 16, 1933, be and it is hereby revoked and cancelled.

IT IS FURTHER ORDERED that the above-entitled application, in all other respects, be and the same is hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof, provided that L. L. Mockenhaupt has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this 7th day of October, 1941.

[Signature]
[Signature]
Justus J. Coleman
Francis D. Havenor
[Signature]
COMMISSIONERS

\$ 25.00
RAILROAD COMMISSION
STATE OF CALIFORNIA
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SECRETARY